

STATE OF CALIFORNIA  
**DEPARTMENT OF INSURANCE**  
300 Capitol Mall, 17<sup>th</sup> Floor  
Sacramento, California 95814

**NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING**

**January 1, 2009 Workers' Compensation Pure Premium Rates**

**File No. REG-2008-00027**

**Notice Date: August 15, 2008**

Proposed Revisions to the Insurance Commissioner's Regulations pertaining to the Classification of Risks; Recording and Reporting of Data; Statistical Reporting and Experience Rating; and Approval of Advisory Pure Premium Rates to be effective January 1, 2009.

**NOTICE AND SUBJECT OF PUBLIC HEARING**

Notice is hereby given that the Insurance Commissioner will hold a public hearing to consider (1) the approval of advisory pure premium rates developed by the designated rating organization, (2) amendments to the California Workers' Compensation Uniform Statistical Reporting Plan—1995, (3) amendments to the Miscellaneous Regulations for the Recording and Reporting of Data, and (4) amendments to the California Workers' Compensation Experience Rating Plan—1995. The hearing will be held in response to a filing, submitted on August 15, 2008, by the Workers' Compensation Insurance Rating Bureau of California ("WCIRB").

**HEARING DATE AND LOCATION**

A public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the matters proposed in the WCIRB's filing, at the following date, time and place:

**September 16, 2008 – 1:00 PM**  
**California Department of Insurance**  
**22nd Floor Hearing Room**  
**45 Fremont Street**  
**San Francisco, California**

## **AUTHORITY AND REFERENCE**

### **Uniform Plans and Regulations**

The workers' compensation classification of risks and statistical reporting rules are set forth in Title 10, California Code of Regulations, Section 2318.6. The miscellaneous regulations for the recording and reporting of data are set forth in Title 10, California Code of Regulations, Section 2354. The workers' compensation experience rating regulations are set forth in Title 10, California Code of Regulations, Section 2353.1. The regulations were promulgated by the Insurance Commissioner pursuant to the authority granted by Insurance Code Section 11734.

### **Pure Premium Rates**

Pursuant to Insurance Code Section 11750.3, a rating organization is permitted to develop pure premium rates for submission to the Insurance Commissioner for issuance or approval. The Insurance Code provisions regarding State rate supervision operative January 1, 1995 do not authorize the Insurance Commissioner to require insurers to use the pure premium rates submitted by the designated rating organization and issued or approved by the Insurance Commissioner. Accordingly, the pure premium rates issued or approved by the Insurance Commissioner are advisory only.

## **INFORMATIVE DIGEST**

Pursuant to Insurance Code Sections 11734 and 11751.5, the Insurance Commissioner has designated the WCIRB as his rating organization and statistical agent. As the designated rating organization and statistical agent, the WCIRB has developed and submitted for the Insurance Commissioner's approval pure premium rates and revisions to the California Workers' Compensation Uniform Statistical Reporting Plan—1995, the Miscellaneous Regulations for the Recording and Reporting of Data, and the California Workers' Compensation Experience Rating Plan—1995. The pure premium rates will be advisory only; however, adherence to the regulations contained in the California Workers' Compensation Uniform Statistical Reporting Plan—1995, the Miscellaneous Regulations for the Recording and Reporting of Data, and the California Workers' Compensation Experience Rating Plan—1995 is mandatory. With regard to the standard classification system developed by the designated rating organization and approved by the Insurance Commissioner, Insurance Code Section 11734 provides that an insurer may develop its own classification system if it is filed with the Insurance Commissioner 30 days prior to its use and is not disapproved by the Insurance Commissioner for failure to demonstrate that the data produced by the insurer's classification system can be reported consistently with the California Workers' Compensation Uniform Statistical Reporting Plan—1995 or the Standard Classification System developed by the WCIRB and approved by the Insurance Commissioner.

The pure premium rates recommended by the WCIRB to be effective January 1, 2009, as well as amendments to the California Workers' Compensation Uniform Statistical Reporting Plan—1995, the Miscellaneous Regulations for the Recording and Reporting of

Data, and the California Workers' Compensation Experience Rating Plan—1995, are detailed in the WCIRB's filing and summarized below.

## **APPROVE PURE PREMIUM RATES**

Pursuant to California Insurance Code Section 11750.3, the WCIRB has proposed advisory pure premium rates for approval by the Insurance Commissioner to be effective January 1, 2009 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2009. The proposed advisory pure premium rates are, on average, 16.0% greater than the January 1, 2008 advisory pure premium rates approved by the Insurance Commissioner.

The proposed pure premium rates applicable to new and renewal policies with anniversary rating dates on or after January 1, 2009 are based on (a) insurer losses incurred during 2007 and prior accident years valued as of March 31, 2008; (b) insurer loss adjustment expenses for 2007 and prior years; (c) the projected policy year 2009 experience rating off-balance correction factor, and (d) classification payroll and loss experience reported for policies incepting in 2005 and prior years.

## **AMEND THE CALIFORNIA WORKERS' COMPENSATION UNIFORM STATISTICAL REPORTING PLAN—1995**

The WCIRB recommends that the following revisions to the California Workers' Compensation Uniform Statistical Reporting Plan—1995 become effective January 1, 2009 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2009, except as otherwise noted below.

- Amend Part 2, *Policy Document Filing Requirements*, Section I, *General Instructions*, Rule 1, *Policies*, paragraph a, *New and Renewal Policies*, subparagraph (2)(d), to eliminate the optional Social Security Number reporting requirement for policyholders that do not have an FEIN, due to privacy concerns.
- Amend the minimum and maximum annual payroll for executive officers, partners, individual employers, and members of a limited liability company to increase the maximum from \$92,300 to \$94,900 and the minimum from \$35,100 to \$36,400, as well as to other payroll limitations relevant to specific classifications (e.g., athletic teams, entertainment classifications, taxicabs, etc.), to reflect wage inflation since the last time these amounts were amended January 1, 2008.
- Amend Part 3, *Standard Classification System*, Section VII, *Standard Classifications*, Rule 1, *Classification Section*, paragraph a, *Industry Groups*, to reflect the proposed establishment of *Metal Working Classifications* as an industry group.
- Amend the dual wage classifications noted below to increase the wage threshold by \$1.00 to reflect wage inflation since the last time the wage thresholds were amended.

*Automatic Sprinkler Installation*, Classifications 5185/5186  
*Carpentry – private residences*, Classifications 5645/5697  
*Carpentry – other*, Classifications 5403/5432  
*Concrete or Cement Work*, Classifications 5201/5205  
*Electrical Wiring*, Classifications 5190/5140  
*Excavation/Grading Land/Land Leveling*, Classifications 6218/6220  
*Gas/Water Mains*, Classifications 6315/6316  
*Glaziers*, Classifications 5467/5470  
*Masonry*, Classifications 5027/5028  
*Painting/Waterproofing*, Classifications 5474/5482  
*Plastering or Stucco Work*, Classifications 5484/5485  
*Roofing*, Classifications 5552/5553  
*Sewer Construction*, Classifications 6307/6308  
*Sheet Metal Work*, Classifications 5538/5542  
*Steel Framing – light gauge – residential*, Classifications 5630/5631  
*Steel Framing – light gauge – commercial*, Classifications 5632/5633  
*Wallboard Application*, Classifications 5446/5447

- Eliminate Classification 3076(5), *Cabinet or Enclosure Mfg. – metal*, as its constituents are more accurately described by other existing standard classifications.
- Eliminate Classification 2623(2), *Fur Mfg. – preparing skins*, due to inadequate statistical credibility.
- Eliminate Classification 2623(3), *Hide Processing or Preserving*, due to inadequate statistical credibility.
- Establish Classification 2586(3), *Hide or Fur Cleaning, Processing or Preserving*, as an alternate wording to Classification 2586(1), *Dry Cleaning or Dyeing – N.O.C.*
- Establish an industry group for *Metal Working Classifications*.
- Eliminate Classification 2106(1), *Olive Handling – sorting, curing, packing and canning – including olive oil manufacturing*, due to inadequate statistical credibility, and establish Classification 2111(2), *Olive Handling – sorting, curing, packing and canning*, to be an alternate wording to Classification 2111, *Canneries – N.O.C.*
- Amend Classification 0016, *Orchards – citrus and deciduous fruits*, to indicate that Classification 0016 applies to acreage devoted to olives.
- Eliminate Classification 2106(2), *Pickle Mfg.*, due to inadequate statistical credibility and establish Classification 2111(3), *Pickle Mfg.*, as an alternate wording to Classification 2111, *Canneries – N.O.C.*
- Eliminate Southern California Rapid Transit District Metro Rail Redline Project, Classification 6254, *Subway Construction – all operations*, due to inadequate statistical credibility.

- Eliminate Classification 2623(1), *Tanning*, due to inadequate statistical credibility.
- Amend Part 4, *Unit Statistical Report Filing Requirements*, Section I, *General Instructions*, Rule 8, *Excess Policies*, to eliminate the unit statistical report filing requirements for excess insurance policies since these requirements are obsolete.
- Amend Part 4, *Unit Statistical Report Filing Requirements*, Section II, *Definitions*, Rule 11, *Final Premium(s)*, to reflect the name of the Terrorism Risk Insurance Program Reauthorization Act of 2007 and to address the reporting requirements for the new provisions in Insurance Code Section 11760.1.
- Amend Part 4, *Unit Statistical Report Filing Requirements*, Section III, *Policy Information (Header)*, Rule 23, *Policy Type ID Codes (Policy Type ID)*, to eliminate the unit statistical report filing requirements for excess insurance policies since these requirements are obsolete.
- Amend Part 4, *Unit Statistical Report Filing Requirements*, Section III, *Policy Information (Header)*, Rules 24 through 27, to facilitate the collection of deductible indicator information and to clarify its intended application.
- Amend Part 4, *Unit Statistical Report Filing Requirements*, Section V, *Loss Information*, Subsection B, *Loss Data Elements*, Rule 13, *Social Security Number (Social Security Number)*, to eliminate the Social Security Number reporting requirement due to privacy concerns. This change is proposed to be effective with respect to claims required to be valued on or after January 1, 2009.
- Amend Appendix V, *Required Loss Fields for Particular Injury Types and Types of Claims*, to eliminate the Social Security Number reporting requirement due to privacy concerns. This change is proposed to be effective with respect to claims required to be valued on or after January 1, 2009.
- Amend for clarity and consistency.

## **AMEND MISCELLANEOUS REGULATIONS FOR THE RECORDING AND REPORTING OF DATA**

The WCIRB recommends that the following revision to the Miscellaneous Regulations for the Recording and Reporting of Data become effective January 1, 2009 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2009.

- Amend Part 1, *General Provisions*, Section I, *Introduction*, Rule 2, *Effective Date*, to be consistent with the effective date of the California Workers' Compensation Uniform Statistical Reporting Plan—1995 for ease of reference.

## **AMEND CALIFORNIA WORKERS' COMPENSATION EXPERIENCE RATING PLAN—1995**

The WCIRB recommends that the following revisions to the California Workers' Compensation Experience Rating Plan—1995 become effective January 1, 2009 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2009.

- Amend Section II, *Definitions*, Rule 2, *Base Premium*, to reflect the name of the Terrorism Risk Insurance Program Reauthorization Act of 2007.
- Amend Section III, *Eligibility and Experience Period*, Rule 1, *Eligibility Requirements for California Workers' Compensation Insurance*, to adjust the eligibility requirement from \$14,300 to \$17,300 to reflect wage inflation and to reflect the changes in the pure premium rates proposed in this filing.
- Amend Section V, *Application of Experience Modification*, Rule 6, *Experience Modification Corrections – Effective Dates*, to correct the citation to the Revisions of Losses rule.
- Amend Section VI, *Tabulation of Experience*, Rule 4, *Losses*, paragraph a, to correct the sequence of referenced paragraphs and rules, and paragraph l to reflect the name of the Terrorism Risk Insurance Program Reauthorization Act of 2007.
- Amend Section VI, *Tabulation of Experience*, Rule 11, *Terrorism Claims*, to reflect the name of the Terrorism Risk Insurance Program Reauthorization Act of 2007.
- Amend the expected loss rates and D-ratios shown in Table II, *Expected Loss Rates and Full Coverage D-Ratios*, to reflect the most current data available.

## **COSTS OR SAVINGS RESULTING FROM THE REGULATIONS**

The Insurance Commissioner is authorized by law to promulgate advisory loss cost rates. These rates may or may not be adopted by insurance companies. To the extent they are adopted, they may result in higher costs.

## **COST OR SAVINGS AND MANDATE TO LOCAL AGENCIES AND SCHOOL DISTRICTS**

The Insurance Commissioner has determined that there may be a cost increase, and there will not be any new programs mandated on any local agency or school district as a result of the proposed regulations, if adopted as proposed herein.

## **IMPACT ON HOUSING COSTS**

The Insurance Commissioner has determined that the proposed regulations will not have a significant effect on housing costs.

## **IMPACT ON SMALL BUSINESSES**

The Insurance Commissioner has determined that the proposed regulations may have a significant effect on small businesses.

## **COST IMPACT ON PRIVATE PERSONS OR ENTITIES**

The Insurance Commissioner must determine the potential cost impact of the proposed regulations on private persons or businesses directly affected by the proposal. At this time, the Insurance Commissioner expects that the proposed regulations may have a significant effect on private persons or entities.

## **FEDERAL FUNDING TO THE STATE**

The matters proposed herein will not affect any federal funding.

## **NON-DISCRETIONARY COSTS OR SAVINGS**

The proposed regulations will not impose any non-discretionary costs or savings to local agencies.

## **COST OR SAVINGS TO STATE AGENCIES**

The matters proposed herein will not result in any cost or savings to State agencies, except for the State Compensation Insurance Fund.

## **REIMBURSABLE COSTS**

There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

## **COMPARABLE FEDERAL LAW**

There are no existing federal regulations or statutes comparable to the proposed regulations.

## **ACCESS TO HEARING ROOMS**

The facility to be used for the public hearing is accessible to persons with mobility impairment. Persons with sight or hearing impairments are requested to notify the contact person for these hearings (listed below) in order to make special arrangements, if necessary.

## **PRESENTATION OF ORAL AND/OR WRITTEN COMMENTS**

All persons are invited to submit written comments to the Insurance Commissioner prior to the public hearing on the proposed amendments contained in the WCIRB's filing. Such comments should be addressed to:

California Department of Insurance  
Attn: Christopher A. Citko  
Senior Staff Counsel  
300 Capitol Mall, 17<sup>th</sup> Floor  
Sacramento, CA 95814

(916) 492-3187  
(916) 324-1883 (FAX)  
citkoc@insurance.ca.gov

Any interested person may present oral and/or written testimony at the scheduled public hearing. Written comments and oral testimony will be given equal weight in the Insurance Commissioner's deliberations.

## **DEADLINE FOR WRITTEN COMMENTS**

All written material, unless submitted at the hearing, must be received by the Insurance Commissioner at the address, FAX number, or email address listed above no later than 5:00 PM on Tuesday, September 23, 2008.

## **TEXT OF REGULATIONS AND STATEMENT OF REASONS AVAILABLE**

The Insurance Commissioner has prepared an Initial Statement of Reasons for the proposed regulations, in addition to the informative digest included in this Notice of Proposed Action and Notice of Public Hearing. The express terms of the proposed regulations as contained in the WCIRB's filing, the Notice of Proposed Action and Notice of Public Hearing and the Initial Statement of Reasons will be made available for inspection or provided without charge upon written request to the contact person for these hearings (listed above). The filing may also be accessed on the WCIRB's website at [www.wcirbonline.org/filings](http://www.wcirbonline.org/filings).

## **ACCESS TO RULE-MAKING FILE, CONTACT**

Any interested person may inspect a copy of or direct questions about the proposed regulations or other matters relative to this filing, the statement of reasons thereof, and any supplemental information contained in the rule-making file upon application to the contact person (listed above). The rule-making file will be available for inspection at 300 Capitol Mall, 17<sup>th</sup> Floor, Sacramento, California 95814, between the hours of 9:00 AM and 4:30 PM, Monday through Friday.

## **AUTOMATIC MAILING**

A copy of this Notice, including the informative digest that contains the general substance of the proposed regulations, automatically will be sent to all persons on the Insurance Commissioner's Bulletins and Rulings, and California Government Code mailing lists.

## **ADOPTION OF REGULATIONS**

Following the hearing, the Insurance Commissioner may adopt or approve regulations substantially as described in this Notice and informative digest or he may adopt or approve modified regulations. He also may refuse to adopt or approve the regulations. Notice of the Insurance Commissioner's action will be sent to all persons on the Insurance Commissioner's Bulletins and Rulings mailing list and to those persons who have otherwise requested notice of the Commissioner's action.

Dated: August 15, 2008

STEVE POIZNER  
Insurance Commissioner

By \_\_\_\_\_/s/\_\_\_\_\_  
Christopher A. Citko  
Senior Staff Counsel